

REMARKS

Applicants contend that Kaffine is not a valid reference for a §103 rejection against the claims. Both that patent and the present application are commonly assigned to Teradyne, Inc. and the reference is therefore disqualified under 35 U.S.C. §103(c). In addition the present application has been amended to claim priority to the Kaffine patent. The claim of priority is appropriate because Peter Schmidt is listed as an inventor in each of the applications. Applicants believe that no fee is due for claiming priority because the present application was filed prior to November 29, 2000.

Because Kaffine is not a valid reference, the indication of allowable subject matter made before this reference was cited should be reinstated. Accordingly claims 17-20 should be allowed and claims 2, 3 and 6 should be indicated to contain allowable subject matter.

Applicants disagree with the rejection based on Stephanou and Ventura. Stephanou describes a system in which help requests from a user are directed to human experts. Ventura is similar, except the help request are directed to an automated expert. In each of these systems a viable communication link between a user and a network element is in place. The content of communications provided by the user is in each case used by the expert to diagnose the user's problem.

In contrast, claim 1 relates to determining configuration information of a subscriber terminal. The configuration of a subscriber terminal is determined from the portions of the communication generated by the subscriber terminal, rather than information supplied by a user. Because the references are directed to a different problem than the present invention, they neither anticipate nor render obvious claim 1.

The dependant claims add further distinguishing features. As discussed above, claims 2, 3, and 6 recite features relating to fault tolerant protocol stacks which are not shown or described in the references.

Claim 4 makes clear that the diagnostic unit in the claim is in the access network managed by an internet service provider rather than a diagnostic application running on a server to which the subscriber is already communicating.

Claim 5 makes clear that the diagnostic unit of that claim is being used to provide information to a support operator. Claims 7, 8 and 9 recite additional details of the exchange

between the subscriber and the diagnostic unit. Because of the difference in application between the claimed invention and the reference, Applicants contend that these details of the exchange are not shown or suggested in the references.

Claim 10 describes that the diagnostic unit is emulating functions that would ordinarily be provided by another network element. The passage cited by the Examiner does not describe emulation. Rather, it describes a service actually being provided by a server.

Claim 11 makes clear that configuration information is being determined by the format of data sent by a subscriber, rather than the content of messages provided by the subscriber. As to claim 13, Applicants contend that the cited passages in the reference discloses a server providing password authentication but does not describe or suggest authentication of a password of an internet service provider net. As regards claim 16, Applicants disagree that the cited passages of the reference shows prioritizing trouble tickets.

Accordingly each of the claims is neither anticipated nor obvious in light of the cited references.

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CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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